

to 25 percent of its unused allocation from the prior year. A Licensee whose unused allocation in two consecutive Tariff Rate Quota Years exceeds five percent of the quantity set forth in its license shall have its allocation reduced in the subsequent Tariff Rate Quota Year by a quantity equal to 50 percent of its unused allocation from the prior year.

(f) No penalty will be imposed under paragraph (e) of this section if the Licensee demonstrates to the satisfaction of the Department that the unused allocation resulted from breach by a carrier of its contract of carriage, breach by a supplier of its contract to supply the fabric, act of God, or force majeure.

#### § 335.7 Modifications of the limitation.

In the event the limitation on the quantity of imports of Worsted Wool Fabric under the Tariff Rate Quotas is increased, the increase will be allocated on the same basis as the rest of the Tariff Rate Quotas. Licenses will be issued or adjusted accordingly.

### PART 340—MODIFICATION OF THE TARIFF RATE QUOTA LIMITATION ON WORSTED WOOL FABRIC IMPORTS

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AUTHORITY: Pub. L. 106-200, 114 Stat. 299; Presidential Proclamation 7383 (December 1, 2000).

SOURCE: 66 FR 6463, Jan. 22, 2001, unless otherwise noted.

#### § 340.1 Purpose.

This part sets forth regulations regarding the procedures for considering requests to modify the limitations on the quantity of imports of fabrics of worsted wool under the Tariff Rate Quotas established by Section 501 of the Act. Section 504 of the Act requires annual consideration of such requests made by U.S. manufacturers of certain

apparel products made of Worsted Wool Fabrics and grants the authority to modify the limitations.

#### § 340.2 Definitions.

For purposes of these regulations and the forms used to implement them:

*The Act* means the Trade and Development Act of 2000 (Public Law No. 106-200, 114 Stat 251).

*The Department* means the United States Department of Commerce.

*HTS* means the Harmonized Tariff Schedule of the United States.

*Imports* subject to Tariff Rate Quotas are defined by date of presentation as defined in 19 CFR 132.1(d) and 19 CFR 132.11(a).

*Production* means cutting and sewing garments in the United States.

*Tariff Rate Quota or Quotas* means the temporary duty reduction provided under Section 501 of the Act for limited quantities of fabrics of worsted wool with average diameters greater than 18.5 micron, certified by the importer as suitable for use in making suits, suit-type jackets, or trousers (HTS heading 9902.51.11), and for limited quantities of fabrics of worsted wool with average diameters of 18.5 microns or less, certified by the importer as suitable for use in making suits, suit-type jackets, or trousers (HTS heading 9902.51.12).

*Tariff Rate Quota Year* means a calendar year for which the Tariff Rate Quotas are in effect.

*Worsted Wool Fabric* means fabric containing at least 85 percent by weight worsted wool.

*Worsted Wool Suits* means men's and boys' worsted wool suits, containing at least 85 percent by weight worsted wool fabric.

*Worsted Wool Suit-Type Jackets* mean men's and boys' worsted wool suit-type jackets, containing at least 85 percent by weight worsted wool fabric.

*Worsted Wool Trousers* means men's and boys' worsted wool trousers, containing at least 85 percent by weight worsted wool fabric.

#### § 340.3 Requests for modification.

(a) On an annual basis, the Department will cause to be published a FEDERAL REGISTER notice soliciting requests from U.S. manufacturers of

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Worsted Wool Suits, Worsted Wool Suit-Type Jackets, and Worsted Wool Trousers to modify the limitations on the quantity of imports of fabrics of worsted wool under the Tariff Rate Quotas. Requests must be received, or postmarked, on a date no later than 15 calendar days after the date of the FEDERAL REGISTER notice.

(b) A request shall include:

(1) The name, address, telephone number, fax number, and Internal Revenue Service number of the requester;

(2) The relevant worsted wool apparel product(s) manufactured by the person(s), that is, Worsted Wool Suits, Worsted Wool Suit-Type Jackets, or Worsted Wool Trousers;

(3) The modification requested, including the amount of the modification and the limitation that is the subject of the request (HTS heading 9902.51.11 and/or 9902.51.12); and

(4) A statement of the basis for the request, including all relevant facts and circumstances.

(c) A request should include the following information for each limitation that is the subject of the request, to the extent available:

(1) A list of suppliers from which the requester purchased domestically produced Worsted Wool Fabric during the 12 months preceding the request, the dates of such purchases, the quantity purchased, the quantity of imported Worsted Wool Fabric purchased, the countries of origin of the imported Worsted Wool Fabric purchased, the average price paid per square meter of the domestically produced Worsted Wool Fabric purchased, and the average price paid per square meter of the imported Worsted Wool Fabric purchased;

(2) A list of domestic Worsted Wool Fabric producers that declined, on request, to sell Worsted Wool Fabric to the requester during the 12 months preceding the request, indicating the product requested, the date of the order, the price quoted, and the reason for the refusal;

(3) The requester's domestic production and sales for the most recent six month period for which such data is available and the comparable six month period in the previous year, for each of the following products: Worsted

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Wool Suits, Worsted Wool Suit-Type Jackets, or Worsted Wool Trousers;

(4) Evidence that the requester lost production or sales due to an inadequate supply of domestically-produced Worsted Wool Fabric on a cost competitive basis; and

(5) Other evidence of the inability of domestic producers of Worsted Wool Fabric to supply domestically produced Worsted Wool Fabric to the requester.

#### § 340.4 Comments regarding requested modification.

(a) If the Department receives a request or requests from a U.S. manufacturer under § 340.3, the Department will cause to be published in the FEDERAL REGISTER a notice summarizing the request or requests and soliciting comments from any interested person, including U.S. manufacturers of Worsted Wool Fabric, wool yarn, wool top and wool fiber, regarding the requested modification. Comments must be received, or postmarked, on a date not later than 20 calendar days after the date of the FEDERAL REGISTER notice.

(b) If the person submitting comments is a domestic producer of Worsted Wool Fabric, comments should include, to the extent available, the following information for each limitation with respect to which comments are being made:

(1) A list of domestic manufacturers of Worsted Wool Suits, Suit-Type Jackets, or Trousers for whom orders were filled during the twelve months prior to the submission of the comments, the date of such orders, the total quantity ordered and supplied in square meters of domestically produced Worsted Wool Fabric and of imported Worsted Wool Fabric, and the average price received per square meter of domestically produced Worsted Wool Fabric and of imported Worsted Wool Fabric for such orders.

(2) A list of all requests to purchase Worsted Wool Fabric during the twelve months prior to the submission of the comments that were rejected by the person submitting the comments, indicating the dates of the requests, the quantity requested, the price quoted, and the reasons why the request was rejected;

(3) Data indicating increase and/or decrease in production and sales for the most recent six month period for which data is available and the comparable six month period in the previous year of domestically-produced Worsted Wool Fabrics used in the production of Worsted Wool Suits, Suit-Type Jackets and Trousers.

(4) Evidence of lost sales due to the temporary duty reductions on certain Worsted Wool Fabric under the Tariff Rate Quotas; and

(5) Other evidence of the ability of domestic producers of Worsted Wool Fabric to meet the needs of the manufacturers of Worsted Wool Suits, Suit-Type Jackets and Trousers in terms of quantity, variety, and other relevant factors.

**§ 340.5 Requests for modification and comments.**

(a) Requests for modification and comments must be accompanied by a statement by the person submitting the request or comments (if a natural person), or an employee, officer or agent of the legal entity submitting the request or comments, with personal knowledge of the matters set forth therein, certifying that the information contained therein is complete and accurate, signed and sworn before a Notary Public, and acknowledging that false representations to a federal agency may result in criminal penalties under federal law.

(b) Any business confidential information provided pursuant to this section that is marked business confidential will be kept confidential and protected from disclosure to the full extent permitted by law. To the extent business confidential information is provided, a non-confidential submission shall also be provided, in which business confidential information is summarized or, if necessary, deleted.

**§ 340.6 Requests for additional information.**

The Department may request additional information from any manufacturer of Worsted Wool Suits, Suit-Type Jackets and Trousers, or manufacturer of Worsted Wool Fabric, wool yarn and wool top and fiber concerning informa-

tion relevant to modifying the limitations.

**§ 340.7 Determination.**

(a) Based on information obtained, including information on market conditions obtained pursuant to the monitoring required under Section 504(a) of the Act, the Department shall consider the following United States market conditions as required by Section 504(b)(2) of the Act:

(1) Increases or decreases in sales of the domestically-produced Worsted Wool Fabrics used in the manufacture of Worsted Wool Suits, Suit-Type Jackets and Trousers;

(2) Increases or decreases in domestic production of such Worsted Wool Fabrics;

(3) Increases or decreases in domestic production and consumption of Worsted Wool Suits, Suit-Type Jackets and Trousers;

(4) The ability of domestic producers of Worsted Wool Fabrics to meet the needs of domestic manufacturers of Worsted Wool Suits, Suit-Type Jackets and Trousers in terms of quantity and the ability to meet market demands for the apparel items;

(5) Evidence that domestic manufacturers of Worsted Wool Fabrics used in the manufacture of Worsted Wool Suits, Suit-Type Jackets and Trousers have lost sales due to the temporary duty reductions on certain fabrics of worsted wool under the Tariff Rate Quota;

(6) Evidence that domestic manufacturers of Worsted Wool Suits, Suit-Type Jackets and Trousers have lost sales due to the inability to purchase adequate supplies of worsted wool fabrics on a cost competitive basis; and

(7) Price per square meter of imports and domestic sales of Worsted Wool Fabrics.

(b) Not later than 30 calendar days after the end of the comment period provided for in § 340.4(a), and on the basis of its consideration of the market conditions set forth in paragraph (a) of this section and other relevant factors, and using the facts available, the Department will determine whether the limitations on the quantity of imports under the Tariff Rate Quotas should be

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modified and recommend to the President that appropriate modifications be made. Consistent with section 504(b)(3)(B) of the Act, such modifica-

tion shall not exceed 1,000,000 square meter equivalents for each of the Tariff Rate Quotas.